

EP 1631

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In Re the Application of:

McKENZIE et al.

Serial No.: 09/163,089

Filed: September 29, 1998

Atty. File No.: 4102-1

For: "COMPOSITIONS FOR  
IMMUNOTHERAPY AND USES  
THEREOF"



Group Art Unit: 1631

Examiner: ZEMAN, M.

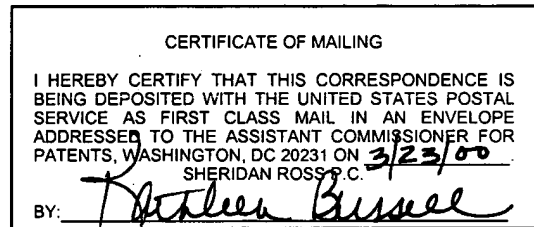
MAR 30 2000

TECH CENTER 1600/2900

RESPONSE TO  
RESTRICTION REQUIREMENT

#9  
Plunkett  
4/6/00

Assistant Commissioner for Patents  
Washington, D.C. 20231



Dear Sir:

This response is filed in response to a Restriction Requirement having a mailing date of February 29, 2000. This response is believed to be timely and therefore, no fees are enclosed. In the event that fees are due in connection with this response, please debit Deposit Account No. 19-1970.

The Examiner has restricted the claims of the above-identified patent application into three groups as follows. Group I (Claims 1-51) is directed to an immunoregulatory composition which includes isolated mannose receptor-bearing cells and a conjugate comprising an antigen and mannose selected from the group of fully oxidized mannose and partially reduced mannose having aldehydes; to a composition comprising an immunoregulatory mannose receptor-bearing cell population; to an immunoregulatory mannose receptor-bearing cell population derived by a particular method; to a mucin antigen delivery vehicle; and to a method for obtaining such populations. Group II (Claims 52-60) is directed to a method to induce an immune response by administering a population of cells as claimed in Group I. Group III (Claims 61-69) is directed to a therapeutic compound, comprising an antigen conjugated to a carbohydrate polymer comprising partially reduced carbohydrate having aldehyde groups.

Applicants provisionally elect, with traverse, to prosecute the claims of Group I (Claims 1-51). Applicants traverse the restriction between Groups I, II and III. The Patent Office may require restriction if two or more "independent and distinct" inventions are claimed in one application. However, "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." M.P.E.P. Section 803.

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With regard to Groups I and III, Applicants submit that a thorough search for Group I should also include the subject matter of Group III. In the present case, the subject matter of these Groups cited by the Examiner is sufficiently small and is so closely related as to be capable of examination together. The restriction requirements in this case only serve to increase the prosecution expense to the Applicants and to the Patent and Trademark Office. More specifically, the Examiner states that the claims of Groups I and III are drawn to differing compositions of matter in that the claims of Group III do not comprise cells. However, Applicants submit that Groups I and III are so closely related that a thorough search for the subject matter of Group I would be sufficient to examine the subject matter of Group III, and that Groups I and III could be searched together without presenting an undue burden on the Examiner. Therefore, Applicants respectfully request that the Examiner withdraw the restriction between Groups I and III.

With regard to Groups I and II, Applicants submit that the method of Group II requires the use of the immunoregulatory composition of Group I. Therefore, Applicants submit that a thorough search for the subject matter of Group I will be sufficient to examine the claims of Group II. In any event, if the elected claims of Group I are found allowable, Applicants reserve their right to amend the claims of Group II to be commensurate in scope with the product claims of Group I, and to request that such amended claims that depend from or otherwise include all the limitations of the allowable product be rejoined and examined for patentability. In re Brouwer, 37 USPQ2d 1663 (Fed. Cir. 1996); In re Ochiai, 37 USPQ2d 1127 (Fed. Cir. 1995).

In view of the foregoing discussion, Applicants respectfully request that the Examiner withdraw the Restriction Requirement between Groups I, II and III.

In the event that the Examiner has any questions regarding Applicants' position, the Examiner is invited to contact the below-named patent agent at (303) 863-9700.

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Respectfully submitted,

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